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ABSTRACT

During the 17-year history of the North Dakota teachers' bargaining law, local education associations and local school boards have negotiated to an impasse and have requested the assistance of the North Dakota Fact Finding Commission on 142 occasions. The present study is a systematic effort to assess perceptions of teachers' associations and boards regarding the services of the Fact Finding Commission. School administrators and negotiators representing the association and board who had participated in the commission's hearings during a 5-year period prior to October 1987 were surveyed by mail in the fall of 1987. The survey instrument solicited perceptions about the law, the process, and the results of the process. After a brief contextual statement, the North Dakota data are reported and analyzed and implications for state statute and process are then suggested. The report next examines the literature on the subject of fact-finding, and concludes with a discussion of prospects for future deliberations in North Dakota and elsewhere. (TE)

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SPECIAL REPORT

University of North Dakota
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An Assessment of the Fact Finding Process and an Evaluation of the Services Provided by the North Dakota Fact Finding Commission

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FOREWORD

The authors are indebted to the North Dakota State Department of Public Instruction for providing the financial assistance which permitted the surveying activity reported in this study. The authors also wish to acknowledge the considerable assistance of graduate students Mary Lystad at the University of North Dakota and David Halver at the University of Wisconsin-Superior. Ms. Lystad persisted in the data gathering activity; Mr. Halver scoured the library for related research.

The present study includes a micro-view of the fact finding process--an assessment of how the process is perceived to work in a single state; the study also attempts a macro-view of the process wherein commentary and research from the nation as a whole is reviewed to permit discussing findings in a larger context.

The study was organized in the following manner: after a brief contextual statement, the North Dakota data are reported and analyzed; implications for state statute and process are then suggested; the authors next examine "the literature" on the subject of fact finding and conclude with discussion regarding prospects for future deliberations in North Dakota and elsewhere.

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CONTEXT

During the seventeen-year history of the North Dakota teachers' bargaining law, 1970-1987 (1), local education associations and local school boards have negotiated to an "impasse" and have requested the assistance of the North Dakota Fact Finding Commission on one hundred forty-two occasions (2). In other instances, when impasse was reached, local mediation or the assistance of federal mediation services had been secured. In still other instances when impasse was declared but before a hearing was conducted, informal assistance (or continued negotiation) produced a contract without a formal hearing.

Prior to the present effort, no systematic attempt to assess perceptions of consumers (teachers' associations and boards) regarding the fact finding service had ever been attempted in North Dakota. The State Department of Public Instruction funded the present study which was conducted by the Bureau of Educational Services and Applied Research at the University of North Dakota.

The purpose for fact finding is clear; it is one of several mechanisms which might be employed to seek resolution of bargaining disputes. Definitions abound. Hinman (3) suggests that:

> Fact finding is a structured process during which the fact finder is presented with both oral and written evidence by the parties on the issues in dispute, and at the conclusion of the hearing or hearings, weighs the evidence and renders a recommendation on the various issues.

Heddinger (4) reports that:

> Fact finding may be viewed as an effort by neutral third parties to assemble facts and to make recommendations based upon these facts, which may help the parties voluntarily reach an agreement which they may not otherwise reach if such facts and recommendations were not set forth.

Webster (5) observes:

> Stated simply, the intention of fact finding is to provide a neutral third-party opinion as to what a contract settlement should be, together with a rationale for that conclusion. Fact finding results are usually made public, an aspect that can--and does--force the parties out of their rigid positions.

The fact finding process, as it has evolved in North Dakota, yields a set of "recommendations" from the Commission

regarding the unresolved items--the items "basic to the impasse." These recommendations are advisory to the parties at impasse. Prior to the recommendations the following steps will have occurred: 1) both parties have formally declared that an impasse exists, 2) the chairperson of the three member commission has provided information regarding the hearing and instructions to both parties for the preparation of pre-hearing materials, 3) the pre-hearing materials have been received, and 4) a date, time, and site have been established for the hearing.

The hearing is a three-stage open meeting of the commission. At the first stage, 1) ground rules for the hearing are discussed, 2) items basic to the impasse are reviewed (occasionally, parties do not agree about what they disagree but this is not usually the case), 3) clarifications are forthcoming (commissioners frequently request clarification regarding data contained in pre-hearing study materials, negotiators or administrators frequently request clarification regarding the process or about requirements subsequent to the process), and 4) other matters considered relevant by the commissioners or by the parties may be discussed. At the second and third stages, the fact finding occurs, first with one party and then with the other. (The order of these meetings--which party goes first, teachers or board--is determined at the first stage and is usually related to preferences of one party or another.) The "fact finding" involves the reporting and recording of a series of contentions, perceptions, assertions, and conclusions--most often supported by data and argument--bearing on the items basic to the impasse and supporting the final position of the contending parties on those items. After the three stages, the Commission assembles and considers the statements, the data, and the arguments presented at the hearing in the context of other data available to the commission. The commissioners then provide a series of recommendations to the parties. In practice, the recommendations represent an attempt to craft a set of accommodations palatable to both sides (6).

THE NORTH DAKOTA STUDY

School administrators and negotiators representing the association and board who had participated in Commission hearings during a five-year period prior to October, 1987 were surveyed by mail in the fall of 1987. Since there had been twenty-six "hearings" during that period, the universe of potential respondents was seventy-eight. (In three instances more than one hearing had been conducted in the same school district; where this occurred only individuals involved in the most recent hearing were surveyed.) The limited population suggested instituting aggressive follow-up procedures. Second instrument distribution and follow-up phone calls secured seventy-two returns, a 92 percent

response rate.

The investigators constructed the instrument to secure perceptions about the law, the process, and the results of the process. They believed that the findings could have implications both for policy and for practice as well as providing evaluative data for executives in state offices. The instrument reflected, then, these multiple purposes.

The instrument, after initial construction, was reviewed by the commissioners, by a Department of Public Instruction official, and by a colleague in educational administration. Two administrators who had experienced a hearing but who were not part of the research population completed the initial instrument. Investigators modified the instrument to incorporate the suggestions of these individuals.

The instrument invited comment after each question and at the conclusion of the instrument. The results reported below reflect both the numerical data derived and respondents' commentary.

Reactions to Fact Finding Statute and Process

Table 1 reports perceptions regarding the law and the process. Each question was analyzed using Chi Square and none revealed significant differences in perception by role.

TABLE 1

RESPONSES TO QUESTIONS REGARDING THE FACT FINDING STATUTE AND THE FACT FINDING PROCESS

	% Yes	% Somewhat	% No
Was the statutory process for arriving at impasse clear?	73.6	20.8	5.6
After impasse was declared but before the hearing, were the communications with the Commission carried out satisfactorily?	88.7	9.9	1.4
Were the instructions for the preparation of pre-hearing materials clear (did you know what to do)?	87.3	11.3	1.4
Was the hearing conducted with fairness and dignity?	91.4	7.1	1.4
Were the commissioners prepared for the hearing (did they read the materials and understand the issues)?	80.3	19.7	0
Were the commissioners knowledgeable about the law, finance systems in the state, and the fact finding process?	95.8	1.4	2.8
Were the reports clearly written?	91.4	7.1	1.4
Were the reports delivered in a timely fashion?	97.1	1.4	1.4

N=72

Findings suggest general satisfaction (ranging from 73.6% to 97.1%) with the process. Some concern (ten percent or more in the "somewhat" or "no" responses) was reflected regarding how to arrive at impasse, whether commissioners were adequately prepared, whether instructions for pre-hearing preparation were clear, and whether communication between impasse declaration and hearing was satisfactory.

Commentary from respondents tended to corroborate these findings. ("A", "T", and "B" attributions at the right margin indicate comments made by administrators, teachers, or board members respectively.)

- When (we're at impasse) is still a question... A

- (It) took two weeks to figure it out...(i.e., when we were actually at impasse) T

- One (commissioner) indicated he didn't understand school budgets... A

- We would have liked to have more time to communicate our concerns... T

- (There is a need for) representation from small schools on the commission (so that small school issues can be comprehended)... B

- They were as prepared as could be expected; however, the commissioners could not have a full understanding of the issues unless they sat in on all of the meetings held between the board and teachers prior to the impasse... B

- Union (NDEA) officials allowed at the hearing (and involved in the pre-hearing preparation) may have prejudiced commission members...the commission spent (more time) with the teachers than with the board... A

- The NDEA field representative arrived with the fact finding team... B

- I feel there should be a chance for exchange between school board and teachers in front of the commission to make clear both sides' positions and intentions... T

- The commission members were not representing the public; college professors are not qualified. One member should be a school board member, one should be a parent, one should be a teacher... B

- They only have facts to deal with; they do not always understand the process and background of how and why you got to impasse... A

- (One) might wonder about the need for budgets and financial information if the only unresolved items are non-monetary. A

- The fact that the commission relied heavily on wages and benefits in surrounding communities was not communicated to us... T

- All the information asked for wasn't necessary in our situation... B

- There was some confusion (about) what kind of information was requested on a certain item. A phone call to one of the fact finders clarified the situation and the information could be supplied. Basically, this was not a significant problem. B

- They (commissioners) were very slow to respond. T

Some additional commentary reiterated these perceptions. Most of the additional commentary on these items, however, reflected satisfaction or approbation for the manner in which the element was addressed.

In summary, it would appear that for the most part the participants were satisfied with the statute and the process of declaring impasse although there is some concern about the following issues that the writers believe are significant and should be addressed: when parties are at impasse, representation on the commission, commissioners' understanding of the real problems and issues, and unnecessary documentation. These issues will be considered more fully in the discussion section.

Problems in Fact Finding Process

Two questions were asked in the survey because of perceived or asserted deficiencies in the law or in the process. Table 2 reports responses to these questions. Again, the Chi Square test revealed no differences by role regarding these issues.

TABLE 2

RESPONSES TO QUESTIONS ABOUT PERCEIVED OR ASSERTED PROBLEMS IN THE FACT FINDING PROCESS

	% Yes	% Somewhat	% No
Should the law be clearer about how to declare impasse when one side declares an impasse?	38.6	42.9	18.6
Should the law be clearer regarding the time line in which the fact finding process occurs?	30.6	54.2	15.3

N=72

While opinion was divided, clearly a substantial fraction, 38.6 percent and 30.6 percent of the respondents, believes clarity regarding the two issues could be improved. This finding is supported by the substantial fraction indicating "not sure." The finding is further supported by commentary:

- It was first understood that either side could declare impasse without concurrence of the other (side)... A

- The process (is unclear when) one side is at impasse and other side isn't... A

- Definitely (the time line should be clearer)... T

- There should be a set time line to be followed... B

- (The) long time factor favors teachers... B

- Should be a shorter time... B

In summary, the respondents were pretty evenly split concerning the declaration of impasse and the timeline of the process. This fact is important because even if some people feel that they understand, it does not mean that they do. It is apparent that these two issues require some consideration and, perhaps some clarification and elaboration as to when there is impasse and what is the timeline for the process of fact finding.

Fairness of Process and Recommendations

Some items incorporated a different response mode. Multiple choices of responses were permitted and comments were solicited. The following tables and narrative detail responses to these questions.

Table 3 contains detail regarding perceived "fairness" of the hearing process. The results were analyzed using the Chi Square test and the results reveal statistically significant differences by role.

TABLE 3

ANALYSIS OF RESPONSES TO THE QUESTION:

WOULD YOU SAY THE HEARING PROCESS WAS FAIR?

	Adm.	Tchr.	Board	Row Total
Yes	18 78.3	20 76.9	14 63.6	52 73.2
No, favored the Board	1 4.3	4 15.4		5 7.0
No, favored the Teachers	4 17.4		6 27.3	10 14.1
Not sure		2 7.7	2 9.1	4 5.6
Column Total	23 32.4	26 36.6	22 31.0	71 100

* Chi Square = 13.28 with 6 df's, $p < .05$.

One administrator and four teachers perceived the process to favor the board; four administrators and six board members perceived the process to favor the teachers. In no instance did a teacher perceive the process as favoring teachers, and in no instance did a board member perceive the process as favoring the board. Seventy-three percent of the total group, however, did perceive the process to be fair.

Commentary following the question revealed a few concerns about process. Especially apparent was the concern about the perceived advantage of "going last."

- The board is not bound by the recommendations of the hearing--the actual hearing was fair. A

- I believe the commissioners divided everything "down the middle." They were attempting to be fair. A

- We felt the recommendations to both sides were fair. T

- The non-binding nature of North Dakota's fact finding process always favors the board because they can ignore recommendations, meet once more, and issue contracts. T

- The process was fair, but the outcome was questionable. T

- Even though the commissioners stated to us that our proposal was reasonable, they still met the board half way. T

- This is not a reflection on the Commission. They met with the Board first and then the teachers. That gave the teachers an opportunity to give their arguments plus refute whatever the Board had said. It was clear from the summary and findings that the Board had not had the opportunity to clarify some of the teachers' allegations. B

Table 4 reveals a similar finding. When asked whether the recommendations were "fair," a statistically significant difference in perception by roles was discerned.

TABLE 4

ANALYSIS OF RESPONSES TO THE QUESTION:

WOULD YOU SAY THAT THE RECOMMENDATIONS WERE FAIR?

	Adm.	Tchr.	Board	Row Total
Yes	18 75.0	15 57.7	10 45.5	43 59.7
No, favored the Board		5 19.2		5 6.9
No, favored the Teachers	4 16.7		5 22.7	9 12.5
Not sure	2 8.3	6 23.1	7 31.8	15 20.8
Column Total	24 33.3	26 36.1	22 30.6	72 100

* Chi Square = 19.11 with 6 df's, $p < .01$.

Four administrators and five board members perceived the recommendations to favor the teachers. Five teachers perceived the recommendations to favor the board. No administrators or board members perceived the recommendations to favor the board. No teachers perceived the recommendations to favor the teachers. Forty-three percent of the total group perceived the recommendations to be "fair" while over one-fifth of the total group was "not sure" that the recommendations were fair. Administrators appeared to be more satisfied with the fairness of the recommendations (75 percent) than were either teachers (57.7 percent) or board members (45.5 percent).

Commentary regarding the fairness of the recommendations was quite extensive. Again, these comments reflected the perception that recommendations "went down the middle" rather than reflecting some conviction based on the findings of fact.

- Too often it becomes a split the difference decision to satisfy both sides! A

- Past settlements and your financial situation seem to mainly influence (commission) recommendations. Possibly this should be the main criterion but other factors should also influence the team. A

- It seemed that the commissioners tried too hard to pacify both sides a little by giving each of them something. A

- Fair, meaning that something be taken from both sides with an attempt to find a middle of the road. If the existing impasse items are all from one side, obviously any gains they get through the recommendations are more than what they had in the previous negotiated agreement. A

- I would say fair but not necessarily based on facts found. It is my feeling that fact finders making recommendations should on occasion support teachers or boards depending on facts rather than finding a middle of the road. A

- The commission seems to always seek a compromise midway between the two sides' positions. In many cases this is probably reasonable, but it would seem that in some cases, one side might be "right" and a compromise would not be appropriate. T

- The difference between the board and teachers was split. We knew we would settle in the middle although we felt we deserved more. T

- It seemed to me that the commission recommended solutions that were half way between the opposing parties. I think recommendations should be made without trying to please both parties. If one party is favored and deserves it then that should be the recommendation. T

- They didn't give either party much of anything. T

- It's very hard to be that objective about the recommendations but I think that the commission tried their best to be fair. T

- Many of the statements made by the board were not supported--and, in fact, were proven untrue by the teachers' material--but the commissioners accepted their statements at face value. T

- I believe that the board has more knowledge on what to offer and how much they can afford, so I don't figure it is fair that someone else recommends what we should pay. We have to look out for the school as a whole, not just the teachers. The board can only afford so much and we hire only as much as we can afford. B

- The commission just split the difference. B

- I was satisfied as Board Chairman and Head Negotiator, and as a board we agreed to accept the Commission's recommendations. However, the staff placed a personal call to (a Commissioner) and got him to interpret the pay scale, without having given us a chance to suggest that it was accepted practice in our system that teachers be allowed to bring in five years teaching experience. When they contacted him, he gave them their entire teaching years as experience and we ended up granting raises of well over $1,000.00 to some. B

- I feel they are not biased either way but individuals from outside the community have a difficult job of understanding our positions--therefore, (they) tend to, in our case, "split the difference" as an answer. B

- We are a small rural one room school. Their recommendations were for larger school systems, which we could not meet. B

Whether we like it or not, a lot of this is a matter of perception. But perception for the most part is reality. It appears that although most participants felt that the hearing process and the recommendations were fair, some felt that the

commission if it favored anybody, favored the other side. This perception may be due to the fact that the opposing sides do not understand or accept the positions of the other side. There is also the issue of "middle-of-the-roading" or tokenism, that is, of the commission taking the middle road between the two camps and not really considering impartially the issues at hand. If that is the case, the commission might want to consider more carefully its mission. It should be noted that fairness is a matter of perception and perhaps some procedures should be implemented to allow both groups a time to present their perceptions of the fairness of the process to the commission.

Helpfulness of Fact Finding Recommendations

Another question sought to determine whether the recommendations assisted the parties in concluding negotiations and in developing a contract. Results do not permit the conclusion that there existed different perceptions among respondents by role; nevertheless, the raw data, reported in table 5, contain findings that merit discussion.

TABLE 5

ANALYSIS OF RESPONSES TO THE QUESTION:

DID THE RECOMMENDATIONS FROM THE COMMISSION ASSIST YOU IN CONCLUDING THE NEGOTIATIONS AND DEVELOPING A CONTRACT?

	Adm.	Tchr.	Board	Row Total
Yes	5 20.8	6 23.1	5 23.8	16 22.5
Yes, to some degree--the recommendations were employed with some alteration.	15 62.5	8 30.8	8 38.1	31 43.7
No, fact finding was just another step in the process.	3 12.5	11 42.3	6 28.6	20 28.2
No, the recommendations delayed progress towards a settlement.		1 3.8	1 4.8	2 2.8
Not sure	1 4.2		1 4.8	2 2.8
Column Total	24 33.8	26 36.6	21 29.6	71 100

* Chi Square = 9.30 with 8 df's, p > .05.

Only 22.5 percent of the respondents reported an unqualified "yes" that the recommendations assisted in completing negotiations and in developing a contract; another 43.7 percent reported "yes to some degree." Over thirty percent of the respondents reported a more negative perception.

Commentary relating to this item was extensive, particularly from teachers:

- The Board refused the recommendations of the commission as though they had made their decision before the hearing... T

- The recommendations were thrown out by the board although (the process) did bring both parties back to the table. Recommendations were greatly altered. T

- I believe that the recommendations helped our cause, but the board was not happy with the findings. T

- Going to fact finding helped us more the following year--because the school board did not want to go through the process again and were more agreeable when we were negotiating. T

- The board would only accept those things which favored them and rejected those items favoring the Association. Therefore, no agreement was reached and the Board issued contracts unilaterally. T

- The board never even brought up the results of the Commission (activity). T

- We gained very little in our impasse year but we did have a much better experience the following year--we feel this was due to the impasse situation the previous year. T
- No, we gained nothing from the hearing. Our proposals were very fair. The board's reaction was (that) the teacher deserves nothing. T

- The board chose not to follow the recommendation; the teachers did. T

- (We) had to go to (the) Supreme Court to settle (the) contract. The Board refused to honor impasse (recommendations). T

- Score: teachers 95; board 5. A

- The teachers knew who had the final say anyway (the board); I believe the board viewed it as just another step. A

- I feel that the board was not advised clearly enough that they had the power in the end. If it had been so, we would simply have heard the staff's objections, and knowing the financial conditions of the district, we would have set the salaries and then been able to tell them that if it wasn't to their liking they were free to look elsewhere for employment. The board is at a definite disadvantage in that they lack knowledge and experience because they do not serve long enough to gain confidence in negotiating. It is the most difficult part of the time spent as a board member and the most degrading experience to go through. B

- One time they assisted us and another (time) we kept on negotiating until we settled. Fact finding...aided us in settling (in the second instance, also.) B

- Our district has gone through the impasse two times. On the one occasion the fact finding commission's recommendations helped and were employed. On the second occasion their recommendation did not help but it did not delay progress either. B

The responses here indicate a large variance in perceptions. Most felt (over 50% in each group in the first two categories) that the recommendations did assist in concluding negotiations and developing a contract. However, many (28.2%) felt that it was just another step in the process and really did not contribute much to the process. This fact was especially true for teachers who tended to feel that although the recommendations were made by the commission they could be ignored by the school board. Some teachers did indicate that the effect may have been more long term in helping them in future negotiations. This may have been an avoidance reaction rather than an acceptance of the recommendations.

Changes in the Law

Still another question solicited responses regarding the law itself. The instrument permitted five choices asking whether and how the law should be changed in the view of the respondent. Table 6 contains the detail regarding these responses. In this instance the Chi Square test revealed a statistically significant difference among respondents by

TABLE 6

ANALYSIS OF RESPONSES TO THE QUESTION:

SHOULD THE LAW THAT PROVIDES FOR ADVISORY RECOMMENDATIONS AS PRODUCT OF THE FACT FINDING PROCESS BE CHANGED?

	Adm.	Tchr.	Board	Row Total
Yes, the arbitration process should be substituted for the fact finding process	3 13.6	5 19.2		8 11.6
Yes, arbitration should be required as the next step if fact finding recommendations are rejected	1 4.5	18 69.2		19 27.5
Yes, remove the "sanction" of publishing the report in the event recommendations are ignored by either or both party(ies)	4 18.2		1 4.8	5 7.2
Yes, abandon the fact finding process altogether and institute no other alternative	2 9.1		4 19.0	6 8.7
No, leave the process as it is	12 54.5	3 11.5	16 76.2	31 44.9
Column Total	22 31.9	26 37.7	21 30.4	69 100

* Chi Square = 52.26 with 8 df's, $p < .001$.

role.

Just over half the administrators (54.5 percent) and fully three quarters of the board members (76.2 percent) indicated that the process should be left as it is. Only 11.5 percent of the teachers were similarly inclined. However, for those indicating that the law should be changed teachers' responses and board responses evidenced sharp distinctions. Some board members (4.8 percent) would remove the sanction of publishing or (19 percent) would abandon the process altogether; no board members indicated receptivity to arbitration either as a substitute process or as a successor process when fact finding recommendations were rejected. Teachers, by contrast, indicated some interest (19.2 percent) in substituting an arbitration process for a fact finding process but a substantial preference (69.2 percent) for employing the arbitration process when the fact finding recommendations were rejected. Administrators' preferences appeared in every response category though six of those who wished the law changed favored board-like positions whereas four favored teacher-like positions.

Commentary following this question was extensive:

- Binding arbitration would be unacceptable and would substitute someone else's decision for rights and responsibilities which are inherent (in) school boards. A

- Do we need to fix something that works? A

- It worked for us! A

- The process should be called mediation because that is what has happened. Impartial fact-finding has not taken place. A

- Negotiations should be done on a state level and greatly restricted at the local level. A

- The state should employ last-best offer binding arbitration as a fair way to settle impasse. T

- The fact that I did not like is that the teachers' negotiators and impasse group could do the best job possible and the fact finding commission could agree with the teachers and then the Board would not have to follow the recommendations. T

- Binding arbitration would be nice, of course. Fact finding is a step that is good, too. T

- The process now in place is not working. The parties involved, for whatever reason, have failed (to reach) a settlement. They should not have the option of rejecting a settlement decided upon by a

third group. The current process is lopsided in favor of the school boards who don't mind laying down $1,000 or more and meeting once more with the teacher representatives to tell them what the contracts will be. T

- This (arbitration) is such an obvious step I cannot believe our legislative people are so slow in implementing it. For professional people to <u>have</u> to put up with this present condition is insulting at best!! T

- The commission seemed fair; I believe it would be in the best interest to (provide) one more step. Right now the teachers must accept the board's proposal. T

- We feel the bill for final offer arbitration, as presented to the last legislature, is a good alternative. T

- The Board ignores recommendations and does as it pleases. T

- You need binding arbitration or (a) statewide salary schedule. No professional should teach for (the) minimum wage! T

- The whole process takes money away from small districts and from teachers--(money) which could be used for education. B

- Work with present process; if changes are made they should not diminish the authority of the local board nor limit their ability to discharge the business of running the local school district as reflected by the patrons of that district. B

- Fact finding commission should take into consideration schools of similar enrollment with (similar) financial obligations. B

- It seemed to work well. B

Administrators and school board members are more agreeable to allowing the present process to continue. Teachers, on the other hand, feel that the fact finding recommendations should only be a step toward arbitration. It would appear that the first two groups are satisfied with the process, but that teachers feel frustrated because the board can ignore the recommendations. The major change that the teachers recommend is that if the fact finding recommendations are not acceptable, the next step would be

arbitration. The teachers feel that they have no power and all the alternatives are in favor of the board.

Additional Comments

An open-ended question solicited "additional comments or advice for the Fact Finding Commission." Responses covered a broad spectrum of thought.

- Overall, we appreciated the Fact Finding Commission's role in what has to be a difficult process. A

- Recommendation--Only local teachers, board members, and administrators should be allowed at this hearing. The Commission (should not) be made up of only ccllege instructors. All Commission members should be knowledgeable concerning School Finance. A

- The commission was well prepared, knowledgeable, fair, and professional. A

- People on the commission did an excellent job under tough circumstances. No complaints. They seemed fair. T

- The three person team was fair and professional. (They) put people at ease and disbanded hard feelings. T

- I feel that historically, the fact finders tend to suggest settling in the middle of both sides' offers rather than completely to favor one side. Our situation at _____ showed the teachers to be very deserving. Board: "If we had the money, we would love to give you teachers raises." A couple years later they had the money and still wouldn't give. That's why we went impasse and still only settled for somewhere in the middle. We went to impasse on principle. We were $200.00 apart and got $100.00 on the base--so money-wise was it worth it? I know in principle it was. T

- I think recommendation should be made with the facts and not necessarily to split the difference of the two groups. T

- For the most part we were satisfied with the commissioners' handling of the situation although we felt that the time they allotted

to the hearing was not sufficient and their recommendations were "right down the middle." Had we known they wanted to know how our district compared to surrounding districts, we feel they may have offered the teachers more in their recommendations. T

- I wish the advisory recommendations were binding. T

- As the commissioners now operate, they are not a fact finding group. They simply look at the statements made by the teachers and the board, they do not require any proof of those statements and they recommend an amount half way between, regardless of the amount or fairness of the situation. T

- (I have) sympathy that they (commissioners) have to go through the whole process. T

- I feel binding arbitration must be instituted to bring about a fair, speedy end to negotiations. T

- North Dakota laws favor the teachers; that's why home schools are increasing--the parents feel they have no choice but keep the (children) home and teach them. I don't believe in home schooling. B

- The very fact that a Fact Finding Commission has to be contacted indicates that communication has broken down. I think if both sides were to respond to each other and use civil, adult approaches instead of the threatening atmosphere that developed with us, much more could be accomplished. It doesn't lend itself to communication when the staff has to confer with their union before they can make a commitment. I feel that NEA and NDEA are unions and there is little sincerity in negotiating in that vein. B

- (A) cross section of different sizes of schools (should be represented) on the commission. B
- Do away with the whole thing. B

- Overall, we appreciated the Fact Finding Commission in what has to be a difficult situation. B

- The present Fact Finding Commission is comprised of three college professors. It might offer a broader perspective if some other professions were on the Commission also. B

- We feel the chairman of the fact finding commission should not express his biased opinion. B

- I felt the Fact Finding Commission was fair. They did a good job in helping us settle negotiations. B

- It seems that the commission's members were all teachers or former teachers. Perhaps the director of the North Dakota School Board Association should also have a seat on the commission so that the local school board has some backing in the process. B

IMPLICATIONS FOR STATUTE AND PROCESS IN NORTH DAKOTA

Perfecting amendments that respond to concerns expressed by both sides and that are unlikely to be controversial should be considered. Modifications recommended would include increasing clarity regarding how to proceed when only one side has declared impasse. (A new statement "e" could be added to 15-38.1-13 subsection 1 which states, "when one party declares that an impasse exists and the fact finding commission, after conducting an assessment process, determines that an impasse exists.") Another modification would clarify "when the clock starts ticking" for counting days in the process. (In this instance the difficulty would be reduced if the law specified "after receiving pre-hearing materials, the Commission shall within twenty working days...")

Perhaps, in the law, there needs to be some attention to what occurs in the instances where the recommendations are rejected or when the recommendations do not facilitate a resolution. Discerning what that process might be is certain to be difficult and controversial.

Teachers would like arbitration. Boards distrust that solution. Perhaps, to complicate this entire issue further, if arbitration is a subsequent step, so too should referral of arbitration recommendations to the electorate be a subsequent step.

Implications for practice seem somewhat easier to deduce. Requests for pre-hearing information could be tailored to request information relevant to the issues involved. This suggestion would require that, at the time impasse was declared, the items "basic to the impasse" were also specified.

Commissioners could mitigate the perception that "going last" permits that party to refute argument. This could be done by anticipating the arguments with the party "going first" and inviting refutation.

Executives (the Governor, the Attorney General, and the Superintendent of the Department of Public Instruction) should be cognizant of the perceptions regarding the size of

the community where the commissioners reside and the professions of the commissioners. A better mix seems warranted. (While nothing in the present study related to this issue, investigators noted that all present and former commissioners were males.)

Communication can always be improved. Perhaps additional information (this study, the material from the Handbook for School Boards) could be furnished before the hearing to all parties. Perhaps, also, a more deliberate and detailed discussion of the whole process should occur at the first stage of the hearing.

THE FACT FINDING PROCESS--AN OVERVIEW

Fact finding was identified early as an appropriate means to resolve collective bargaining disputes among public employees, including teachers. Writing in 1970, Moskow et al.(7)referred to study commissions in Illinois and Michigan which recommended fact finding as the terminal step in the impasse procedure for public employees. Moskow further wrote that all the proposed laws drafted by state affiliates of the National Education Association included mediation and fact finding as collective bargaining impasse resolution procedures (8). By 1968, however, Moskow concluded that not much use had been made of either mediation or fact finding to resolve collective bargaining disputes in public education. About one-third of the collective bargaining agreements in elementary and secondary education provided for an impasse resolution procedure and most of those had included mediation and fact finding (9). According to Moskow, fact finding had been used increasingly to settle public employment impasses with advisory awards or recommendations. While fact finding was legislatively imposed on the parties in some instances, it was sometimes voluntarily agreed to by the parties as well.

Early hopes for fact finding an a panacea for collective bargaining impasses apparently did not materialize as experience with the procedure increased. A study of forty-two cases by the Wisconsin Employment Relations Commission (10) between 1966 to 1969 revealed that the general public had little interest in the make-up of the fact finding panel, the procedures the panels followed, the evidence they obtained, or the recommendations they made. Public response to fact finding may well have been related to the nature of the services performed by public employees (11). Typically, union leaders did not view fact finding as an acceptable terminal step in impasse resolution. Preferring the right to strike, union leaders stated that fact finding was used only where no other alternative existed and to take the heat off the union leadership when it was obvious the public employers did not have the resources to pay higher wages which was then confirmed by the fact finders (12). While some early studies

had reported favorably on the effectiveness of fact finding, studies in Wisconsin and New York were critical of fact finding because of its lack of finality. Public employers rejected fact finders' recommendations more frequently than unions (13). Moskow, et al. identified cases in Wisconsin and New York State where municipal governments and boards of education rejected fact finding recommendations as early as 1967 and 1968 (14). Public employers, however, were not the only ones rejecting fact finder recommendations as a 1975 case involving the Colorado Springs teachers showed. After the teachers rejected the fact finders' recommendations to settle a contract dispute, they went out on a twelve days strike (15).

Some studies suggested that there was a "narcotic or chilling effect" of fact finding on collective bargaining. In 1972, eighty percent of the parties to collective bargaining in New York and Wisconsin believed that there was little serious bargaining before the parties went to fact finding (16). While fact finding was designed to resolve bargaining disputes and prevent overt strike activity, more than seventy-five percent of the strikes that occurred between 1972 and 1980 occurred in states employing nonbinding impasse resolution procedures (17).

Seamon (18) concluded that the effectiveness of fact finding as a dispute resolution procedure may have been compromised by the ways practitioners had used the procedure over the years. Fact finding had been used as a form of mediation in some instances and resembled formal arbitration proceedings in other instances. While flexibility has its merits, the absence of a generally accepted idea of fact finding as a procedure for the second step of impasse resolution jeopardized its effectiveness.

In a 1977 follow-up study of nine diverse public school districts, Perry (19) found that the ways in which the parties dealt with collective bargaining impasses had changed substantially since the original 1965 study. Perry stated that in the early period or stage, much emphasis and confidence was placed on fact finding to resolve bargaining impasses, and the procedure worked reasonably well. Over time, the emphasis and confidence in fact finding had subsided quickly and dramatically. The parties had turned, instead, to the strike and related activities, such as picketing after school hours, distributing literature, and organizing one-day protest strikes or "sick-outs," rather than employing fact finding or arbitration mechanisms.

While fact finding may not have completely met its expectations in practice, the claims for its use have been worthy of continued attention. Fact finding did, in fact, become a widely used third party impasse resolution mechanism in the public sector and was often a service provided by a state agency in compliance with state legislation (20). According to Grodin, et al. (21), the public sector, unlike the private sector, has relied heavily on fact finding to resolve collective bargaining impasses. Moskow, et al. (22),

stated early that the proponents of fact finding claimed that it minimized strikes in the public sector. Fact finding, according to Kearny (23), provided an opportunity for the parties to "cool off" after anger surfaced in collective bargaining and allowed the public to be involved in the bargaining arena by publicly specifying unresolved issues and how the parties stood on them. Fact finding in public education appealed to both parties to be reasonable and mindful of the welfare of children and the public interest (24). Kearny (25) argued that fact finding may have outlived its usefulness in many places, especially in large jurisdictions where collective bargaining had occurred for many years and where binding arbitration was available. However, it apparently remained a relatively effective procedure in new collective bargaining relationships and in rural areas and smaller communities.

Whitman (26) conceded that fact finding had come under considerable attack in the literature and that research findings sometimes suggested the procedure was obsolete. However, with the onset of compulsory mediation and fact finding in Indiana, parties who had participated for six or seven years in collective bargaining could respond positively to the compulsory use of mediation and fact finding.

Recent Research and Legislation

Whitman (27) studied 1,700 instances of collective bargaining in 289 Indiana public school districts and found that the state's conversion from voluntary to compulsory mediation and fact finding substantially reduced the statewide average length of negotiations while it had no effect on the reduction of severely protracted negotiations. Whitman discovered that the number of protracted negotiations were significantly greater during the latest three years than the first three years of the state's collective bargaining law though the average number of negotiating sessions needed for contract settlement stayed quite constant. The findings, according to Whitman, indicated the viability of the mediation and fact finding procedures, but Whitman concluded that voluntary procedures were unable to minimize increases in the overall length of negotiations and the number of protracted negotiations. Spears (28) reported that fact finding in Indiana had been seldom used since the early years of the 1973 collective bargaining law with mediation being the most successful means for settlement of disputes. Yet Whitman (29) believed that the large number of settlements in Indiana were obtained because of the "threat" of mediation and fact finding and, hence, indicated respect in Indiana for these procedures.

In a later study, Dworkin (30) found no statistically significant relationships between the use of mediation, fact finding, or both and contract outcomes in a 1984-85 sample of Indiana school districts. Dworkin concluded that the use of

mediation and/or fact finding, in view of these results, should cause the parties to approach impasse resolution procedures with caution and employ them only in a serious attempt to aid the negotiations efforts of the parties.

Gallagher and Chaubey (31) reported the findings of a study on tri-offer arbitration in Iowa in which one of the offers was that of a fact finder. A total of 271 collective bargaining impasses in the public sector were analyzed between 1975 and 1980. These cases utilized mediation and fact finding with eighty-five of the cases going to tri-offer arbitration. The arbitrator selected on an issue-by-issue basis the final offer from among the union, employer, and fact finder recommendation that he or she thought most reasonable. Arbitrators generally selected the fact finders' recommendations. Also, fact finders in Iowa recommended settlements somewhere between the parties' positions most of the time. Clearly, fact finders, as well as arbitrators, relied essentially on comparability in their decisions which resulted in arbitration awards very similar to collectively bargained settlements.

The referendum impasse resolution procedure served as a basis for a recent study by Gangel (32). Apparently not yet utilized in public education, the procedure was hailed by Gangel as a new alternative to impasse resolution in collective bargaining. In essence, the procedure would provide for a public vote to determine which party's (the school board, teachers' union or fact finders') position would be incorporated in the master contract. By 1985, at least five municipalities in the United States had ordinances allowing this procedure to be used. None of these cases involved school districts. However, Gangel suggested that the education arena may be fertile, though untested, soil for its use. He reasoned that because of continued discontent with traditional public sector impasse resolution procedures, alternatives were worthy of consideration for public education collective negotiations.

Englewood, Colorado (33) adopted the tri-offer referendum procedure in 1972. The ordinance stated that:

> [I]f the appropriate city officials and the representatives of a certified public employee union reach impasse, the matter is to be sent to the Board of Career Service Commissioners for fact finding and mediation. The members of the commission can serve no other public appointment or position while serving on the Commission. The commission is empowered to appoint mediators and/or fact finders to assist the parties at impasse. Thirty days after the impasse is initially referred to the commission, the Commission is required to submit its findings and recommendations, the City Council is then formally notified that the impasse persists. If the impasse is not resolved thirty days after the council is notified, then a special

election is held. The ballot must have a proposal by the commission, and it may also have the proposals of the union and/or the city if the respective parties desire. The proposal receiving the most votes wins and becomes contract.

The Aurora, Colorado and Denver, Colorado municipalities more recently adopted the referendum impasse resolution procedure which included provisions for fact finding (34).

Gangel (35) surveyed a sample of officials in 174 school districts in four eastern states to determine acceptability of the referendum impasse resolution procedure. Of the education related officials, school board chairpersons indicated the greatest willingness to accept the referendum. Public school district superintendents were next in their support and teachers' association presidents were the least supportive of the referendum. This finding prompted Gangel to state that the public, as represented by locally elected officials, was most accepting of the referendum idea. All officials indicated that they preferred a referendum to a strike or to the absence of an impasse resolution procedure. Indeed, to Gangel, the referendum does not conflict with mediation or fact finding and can be used in place of interest arbitration or the strike. Overall, officials from the least restrictive labor relations environments were more supportive of the referendum than were those from the more restrictive labor relations environments.

The two most recent states to enact public employment collective bargaining laws, Illinois and Ohio, provided for fact finding to resolve bargaining disputes. Effective January 1, 1984, the Illinois Education Labor Relations Act (36) provided for a labor relations board which could invoke mediation on its own or at the request of either party. A mediator could also engage in fact finding if requested to do so by the parties. The parties paid equally for the services of the mediator-fact finder. The law does not require the parties to use either fact finding or interest arbitration to resolve collective bargaining impasses. Effective April 11, 1984, the Ohio Public Employees Collective bargaining Act (37) provided for a state employment relations board which could intervene in bargaining disputes at the request of either party. The board first appoints a mediator if an impasse exists forty-five days before the expiration of the current master contract. If an impasse still exists thirty-one days before master contract expiration, the board must appoint a fact finding panel of three or fewer members selected by the parties. The fact finding panel must make final recommendations on all the unresolved issues within fourteen days. If either or both parties reject the fact finding panel recommendations, the board publicizes the recommendations. At this point, certain public employees, such as teachers, may give notice to strike the public employer.

Some Issues in Fact Finding

Seamon (38) has listed a series of "shoulds" related to the implementation of fact finding in the public sector (35). He stated that a single fact finder should be utilized rather than a panel on the grounds that individual fact finders were quite capable of handling the great majority of impasse cases. Only in extremely complex disputes should a tripartite board be utilized. The tripartite fact finding panel, Seamon argued, was incompatible with a process premised on impartiality and objectivity. This incompatibility was particularly apparent when the process ends in nonbinding recommendations that rely on reason and persuasion for acceptance.

Seamon proposed that procedures for selecting the fact finder provide for participation by the parties to the impasse. Further, a fact finder should be separate from a mediator; a mediator should not be subsequently appointed as a fact finder. The fact finder fulfilled a function that could be distinguished from that of the mediator. The fact finder had quasi-judicial responsibilities. These responsibilities required him or her to determine the facts surrounding an impasse, establish the parties' positions, hear the parties' respective rendition of the facts, and issue a report of recommendations for settlement. But there should be a limit to the issues submitted to the fact finder. Rigid restrictions should not be necessary. Procedural modifications could insure that the fact finder deals with issues that were major impediments to voluntary settlement.

According to Seamon's propositions, the fact finder takes an active role in guiding the hearings. He or she questions the parties, directs further arguments on particular issues, and seeks and corroborates facts by his or her own initiative.

In Seamon's view, a fact finder should be available to the parties to clarify and resolve interpretation problems in the factfinder's report from the time the report is issued to the time of settlement. The report itself is first issued to the parties involved in the impasse. The report is then made available to the public if a settlement is not reached by a predetermined date. The reasoning behind the fact finders' recommendations is most important. Seamon identified five elements that determine the structure of the report:

1) a brief description of the school district and the sequence of events that led to fact finder intervention;
2) a clear description of the issues at impasse;
3) a presentation of the parties' position on those issues;
4) the fact finders' recommendations, and, most important,
5) an explanation of the reasoning that led to those recommendations (39).

Other propositions offered by Seamon (40) included characteristics fact finders should or should not have. He asserted that there was no reliable evidence to suggest that there existed a set of specific criteria to be used to select a fact finder in terms of personal qualifications. However, he said a fact finder should not be a member of the community in which the fact finding was to occur (with the exception of large metropolitan areas). Also, the fact finder in public education negotiations impasses should have knowledge of the operation of elementary and secondary education, school finance and law, and teacher-administrator relationships.

Seamon (41) took the position that fact finding should be developed as a unique second step of bargaining impasse resolution. He stated that view was not inconsistent with the proposition that mediation was a preferred technique for bargaining impasse resolution. Combining the elements of mediation and fact finding, however, could diminish the effectiveness of both.

Contrary to Seamon's views, Moskow, et al. (42) argued that the fact finder can on occasion mediate a dispute simply by stating his or her opinions about the issues and the facts. Kearny (43) also saw advantages in combining mediation and fact finding in a single person which suggested some potential benefits for conducting fact finding even before mediation. Moskow, et al. (44), suggested that the public sector fact finder must see that his or her role will vary according to the circumstances in which he or she finds himself or herself. Fact finding, then, was not just adjustment or adjudication. It may well have been a mixture of each along with an infusion of political and strategic considerations. The success of fact finding in the end depended on the acceptability and ingenuity of the fact finder. Finally, Kearny (45) advanced the proposition that fact finding panels, composed of a neutral and representative of each party, had to be seen for what they were: mediators at a higher level.

The anticipated role of public opinion after publication of a fact finders' report could be a controlling factor in assisting the parties to end a bargaining impasse. Becker (46) contended that although a publicized fact finders' report was not binding on the parties, if public opinion were galvanized to support the fact finders' recommendations, the probability of a settlement was increased. Gangel (47) also expressed the frequently stated hope that anticipated pressure from publication of the fact finders' report would bring about a resolution of the bargaining impasse. According to Kearny (48), fact finding may be utilized by the parties to insure that an agreement they would have made anyhow would be acceptable to their respective constituents, including the general public and elected legislators.

Kearny (49) suggested that the term fact finding really was a misnomer. Facts in fact finding, according to Kearny, were not objective but were different interpretations by the parties of the circumstances surrounding an impasse. The

fact finders' duty, then, was to determine which set of facts or interpretation of the circumstances was most important in any bargaining impasse situation. Facts were really selected and slanted by the parties to gain a favored position with the fact finder. Fact finding was, after all, a partisan game. Though the parties allege they each have the real facts, the fact finder concentrated his or her investigation on data which allowed for a comparison of local circumstances with other similar communities or districts.

Gallagher and Chaubey (50) explored the theoretical aspects of final offer arbitration in conjunction with fact finding. The inclusion of the fact finders' recommendation in tri-offer arbitration reduces the concern that final offer arbitration may encourage arbitrators to choose between two unreasonable final offers from the parties to the impasse. Further, in this view, the parties would give more respect to a fact finders' nonbinding recommendations. The parties would have to both justify their own final offers and convince an arbitrator to put aside the fact finders' recommendations. The fact finders' report would be a benchmark by which the arbitrator could evaluate the parties' positions. In essence, Gallagher and Chaubey (51) asserted "fact finding provides some formal guidance to achieve a mutually agreeable resolution, besides retaining an opportunity for the parties to modify their positions prior to a second, but final and binding, neutral decision."

DISCUSSION

Early on, fact finding was viewed by practitioners and scholars as a satisfactory collective-bargaining impasse-resolution procedure in the public sector. As experience with the procedure evolved in the 1960s and 1970s, fact finding's promise was not realized in practice. Lack of finality, public indifference to the fact finders' published recommendations, and the public employer's unilateral right to reject the recommendations, all led to a search for a more satisfactory impasse resolution procedure. The results of this search included the inception of such practices as tri-offer arbitration, the impasse-resolution referendum, fact finding-mediation and mediation-arbitration.

The literature addressed certain concerns raised by the respondents to the North Dakota study. Whether other, or additional, impasse resolution mechanisms should be legislated will continue to be a "hot issue." Teachers' associations would like binding arbitration; school boards resist that "solution." Whether, in this context of disagreement, fact finding will continue to serve as an adequate or sufficient resolution mechanism will itself be a subject of dispute.

In the literature, the weight of the evidence and opinion suggests that fact finding becomes "obsolete" or

"loses effectiveness" over time. There exists the contrary opinion that fact finding continues to be a useful process for impasse resolution.

In the North Dakota study, echoes of both persuasions can be heard: some would not change a process which is perceived to work. Others, teachers particularly, worry that boards will come to employ fact finding as another event in the process, ignore the recommendations, and "unilaterally" issue contracts.

Other state legislatures struggle with similar questions. The choices others have made vary considerably. This subject, how to resolve impasses, is not an arena where the appropriate balancing of interests to achieve the greatest public good has been agreed upon or established. The issue will continue to be on the legislative agenda.

1. North Dakota Century Code, Chapter 15-38.1, Teachers Representation and Negotiation.

2. Education Fact Finding Commission, Annual Report and Proceedings, 1986-87 (and prior years).

3. S. B. Hinman, Jr., "Factfinding in Public Education Negotiation Disputes: A Management View," Journal of Law and Education, 3(2), 1974, p. 275.

4. Fred M. Heddinger, Act 195, Pennsylvania Association of School Boards, Inc., Harrisburg, PA, 1976, p. 95.

5. William B. Webster, Sr., Effective Collective Bargaining in Public Education , Iowa State University Press, Ames, Iowa, 1985, p. 161.

6. North Dakota School Boards Association, Impasse and Fact Finding, Handbook for School Board Members (2nd Edition), Bismarck: The Association, pp. 1-6, section 11-45-85, 1985.

7. M. Moskow, J. Loewenberg and E. Koziara, Collective Bargaining in Public Employment, Random House, New York, 1970, p. 279.

8. Ibid., p. 167.

9. Ibid.

10. J. Grodin, D. Wollett and R. Alleyne, Collective Bargaining in Public Employment, Third Edition, BNA, Inc., Washington, D.C., 1979, p. 121.

11. Moskow, et al., Collective Bargaining, p. 121.

12. Ibid., p. 121.

13. R. Kearny, Labor Relations in the Public Sector, Marcel Dekker, Inc., New York, 1985, p. 256. Also see W. Word, "Implications for Factfinding: The New Jersey Experience," in Harry Kershen, ed., Impasse and Grievance Resolution, Baywood, Farmingdale, NY, 1977, pp. 9-14.

14. Moskow, et al., Collective Bargaining, pp. 279-80.

15. H. Becker, "Mechanisms for Resolving Collective Bargaining Impasses in Public Education," in J. Herring and J. Sartheory, eds., Collective Bargaining Techniques in Education, MESA Publications, Austin, Texas, 1980, p. 183.

16. J. Grodin, et al., Collective Bargaining, p. 272; also see, R. Butler and R. Ehrenberg, "Estimating the Narcotic Effect of Public Sector Impasse Procedures," Industrial and Labor Relations Review, 35:1, pp. 3-20, October 1981.

17. M. Finch and T. Nagel, "Collective Bargaining and the Public Schools: Reassessing Labor Policy in an Era of Reform," Wisconsin Law Review, pp. 1584-85, 1984(6).

18. H. Seamon, "Fact Finding in the Public Sector: A Proposal to Strengthen the Fact Finder's Role," in H. Kershen, ed., Impasse and Grievance Resolution, p. 17.

19. C. Perry, "Teacher Bargaining: The Experience in Nine Systems," Industrial and Labor Relations Review, 33:1, pp. 3-17, October 1979.

20. H. Becker, "Mechanisms for Resolving Collective Bargaining Impasses," p. 183.

21. J. Grodin, et al., Collective Bargaining, p. 271.

22. Moskow, et al., Collective Bargaining, p. 280.

23. R. Kearny, Labor Relations, p. 256.

24. H. Becker, "Mechanisms for Resolving Collective Bargaining Impasses," p. 183.

25. Kearny, Labor Relations, p. 257.

26. M. Whitman, "Compulsory Versus Voluntary Conciliation in Indiana Public School Bargaining," Journal of Collective Negotiations in the Public Sector, 12:1, pp. 71-77, 1983.

27. Ibid., pp. 71-72.

28. J. Spears, "Educational Collective Bargaining Impasse Status in Illinois and Selected States, 1984-85," unpublished doctoral dissertation Southern Illinois University at Carbondale, 1985, p. 23.

29. M. Whitman, "Compulsory Versus Voluntary Conciliation in Indiana", p. 75.

30. J. Dworkin, "Collective Bargaining Outcomes in Education: The Case of Indiana," Journal of Collective Negotiations in the Public Sector, 16:4, pp. 363-375, 1987.

31. D. Gallagher and M.D. Chaubey, "Impasse Behavior and Tri-Offer Arbitration in Iowa," Industrial Relations, 21:2, pp. 129-147, Spring 1982; also see, J. Delaney, "Strikes, Arbitration and Teacher Salaries: A Behavioral Analysis," Industrial and Labor Relations Review, 36:3, pp. 431-446, April 1983.

32. David M. Gangel, "The Referendum Impasse Resolution Procedure and Its Potential Application to the Education Profession," unpublished doctoral dissertation, Virginia Polytechnic Institute and State University, 1985, pp. 3-5.

33. Ibid., pp. 30-31.

34. Ibid., p. 35.

35. Ibid., pp. 59, 88-89, 138, 147-149 and 153.

36. Spears, "Educational Collective Bargaining Impasse Status," pp. 27-28, 30, 45, 76-77 and 103.

37. D. Merritt, ed., Collective Bargaining in Ohio: The Public Sector, University of Toledo, Toledo, Ohio, 1985, pp. 37 and 57-58.

38. H. Seamon, "Fact Finding in the Public Sector," pp. 19-21 and 24-25.

39. Ibid., p. 21.

40. Ibid., p. 18.

41. Ibid., p. 17.

42. Moskow, et al., Collective Bargaining, p. 120.

43. Kearny, Labor Relations, p. 272.

44. Moskow, et al., Collective Bargaining, p. 279.

45. Kearny, Labor Relations, p. 272.

46. Becker, "Mechanisms for Resolving Collective Bargaining Impasses," p. 183.

47. Gangel, "The Referendum Impasse Resolution Procedure," p. 12.

48. Kearny, Labor Relations, p. 255.

49. Ibid., pp. 254-55.

50. Gallagher and Chaubey, "Impasse Behavior and Tri-Offer Arbitration," pp. 130-131.

51. Ibid., p. 131.

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